

CITY COUNCIL  
CITY OF COSTA MESA

COUNCIL CHAMBERS  
CITY HALL  
77 FAIR DRIVE

MAY 17, 2004  
REGULAR MEETING

Mayor Pro Tem Mansoor called the Regular Meeting of the City of Costa Mesa, California to order at 6:30 p.m.

PLEDGE OF ALLEGIANCE: Council Member Steel led the assembly in the Pledge of Allegiance to the Flag.

MOMENT OF SOLEMN EXPRESSION: The Mayor Pro Tem gave a moment of solemn expression.

ROLL CALL: The Mayor Pro Tem requested the Deputy City Clerk to call the roll:

PRESENT:	COUNCIL MEMBERS:	GARY C. MONAHAN, MAYOR (Temporarily Absent) ALLAN R. MANSOOR, MAYOR PRO TEM LIBBY COWAN MIKE SCHEAFER CHRIS STEEL
----------	------------------	--

ABSENT:	COUNCIL MEMBERS:	NONE
---------	------------------	------

ALSO PRESENT:	ALLAN L. ROEDER, CITY MANAGER TOM WOOD, ACTING CITY ATTORNEY JULIE FOLCIK, DEPUTY CITY CLERK DONALD LAMM, DEVELOPMENT SERVICES DIRECTOR WILLIAM MORRIS, PUBLIC SERVICES DIRECTOR
---------------	--

MINUTES: On motion by Council Member Steel, seconded by Council Member Scheafer, the City Council approved the Minutes of the Adjourned Regular Meeting held April 12, 2004 and the Regular Meeting held May 3, 2004. Council Member Monahan absent. MOTION CARRIED.

READING OF TITLES ONLY: Council Member Mansoor moved to read all ordinances and resolutions by title only. Council Member Cowan seconded the motion. Council Member Monahan absent. MOTION CARRIED.

PROCLAMATIONS: Mayor Pro Tem Mansoor acknowledged the following proclamations:

1. Mental Health Month, May 2004: Request by the Orange County Mental Health Board.
2. National Women's Health Week, May 9 through 15, 2004: Request by the Department of Health and Human Services.
3. Small Business Week, May 16 through 22, 2004: Request by the U. S. Small Business Administration.

PUBLIC COMMENTS:

1. Gary Brown, Costa Mesa, questioned the development of 25 homes at 23<sup>rd</sup> and Orange Avenue, property which was to be a church in perpetuity and advised he had a petition signed by 25 people living one block away who oppose the development; also questioned how he could change the General Plan. The Mayor Pro Tem stated the

development met all the legal requirements, but requested the Development Services Director to explain the process. Mr. Don Lamm explained the General Plan Amendment process and further advised the process by which the development was approved, noting that no appeals had been filed and the entitlement was valid for one year.

2. Thomas Bachetti, Costa Mesa, advised he had sent a letter to the City relating to the duration of the yellow light interval on the 19<sup>th</sup> Street and Newport Boulevard traffic signal, noting it was not in compliance with the State Vehicle Code, nor Caltrans standards. Mayor Pro Tem Mansoor acknowledged receipt of the letter. City Manager Allan Roeder advised that the Police Department and the City Transportation Division were reviewing the documentation submitted to prepare a response, and he welcomed a meeting with Mr. Bachetti to discuss some of his recommendations. Mr. Bachetti submitted additional material to the City Manager.

3. Steven Clifford Perkins, Costa Mesa, pointed out that the strobe lights in connection with 19<sup>th</sup> Street and Newport Boulevard traffic signal are startling and wanted to be sure the Police Department was cautioned and trained about their effect on people, noting a recent Police-involved shooting of a woman in Fountain Valley.

4. Martin Mallard, Costa Mesa, suggested that the City Council again look at the possibility of a marina and pocket beach over the bluffs, requested more Police sobriety check points on Fairview, and enforcement of ordinances relating to produce trucks in Mesa North.

5. Pamela Frankel, West Side of Costa Mesa, advised plans for another home on Myran Drive had been submitted and requested that the turn-around area at the end of the street not be reduced as proposed, and that the old trees and existing landscaping be left intact. Development Services Director Don Lamm stated that this is the second home proposed for construction on Myran Drive, that the Zoning Administrator had reviewed the plans, an appeal had been filed with the Planning Commission, which would now be the appropriate forum for one to express their views/recommendations.

6. Tiny Hyder, Costa Mesa, advised that she owns Lot No. 1 on Myran Drive, was upset that someone was allowed to pave her private street without her consent, that during and after construction there is always no access for the physically challenged, guest parking is a problem and results in her disabled parking space being impacted, City will not issue tickets since Myran is a private street, and a precious old Ponderosa Pine tree is being destroyed; Ms. Hyder emphatically stressed that Mr. Chilkott or anyone involved with him did not have her permission to invade any portion of her property.

7. Ann Hogan Shereshevsky, Costa Mesa, thanked the Fire Department for their Expo held yesterday; requested enforcement of dogs on leashes and pooper scooper usage; requested trash cans be returned to the sidewalks; and asked if there were special fees for paramedic services. Public Services Director Bill Morris stated that the purpose of the fully automated refuse system allows for the trucks to move quicker through residential areas and the arms of the trucks cannot reach past parked cars. Mayor Pro Tem Mansoor advised that the issue of paramedic fee subscriptions would be reviewed in the near future.

8. Robin Leffler, Costa Mesa, encouraged the City Council to direct that a citizen-friendly education program on how to participate in the City's appeal process, be prepared, and that notice of decision be mailed to all who were notified of the particular public hearing. Mayor Pro Tem Mansoor explained that staff is always available for citizen inquiries, notices of public hearing are mailed, agenda are posted on the City's website, calls to Council Members, and the Public Comments section of the agenda are ways for City/citizen communication.

Mayor Monahan entered the meeting at 7:10 p.m. and assumed chairmanship.

9. Robert Graham, Costa Mesa, displayed a newspaper article about John Wayne Airport (JWA) adding three temporary gates at one end of the terminal and three at the other end at a later date, until they can construct an additional six permanent gates, that 10.8 million passengers would pass through JWA, and additional flights would be instituted. Mr. Graham used maps to show the length of the one runway at JWA and made comparisons of the number and length of runways at Long Beach, Ontario, and Los Angeles airports. He expressed the opinion that it was not too late to have an airport at El Toro and encouraged the City Council to express the need for more runways in Orange County.

10. Beth Refakes, Costa Mesa, announced that the Costa Mesa Historical Society would be holding an open house on Saturday, May 21<sup>st</sup>, from 10:00 a.m. to 4:00 p.m., with the theme being Costa Mesa Businesses Through the Decades, and invited everyone to attend; noted that at the recent vintage aircraft show at JWA, the planes were noisy and flew low over residences on the East Side, and recommended this safety issue be addressed before the next show.

11. Terry Shaw, Costa Mesa, clarified for the edification of the audience, that the City actually amends the General Plan piece-meal in between major amendments.

12. Heather Somers, Costa Mesa, reported that the East Side is being significantly impacted by aircraft taking off from JWA, since they now are flying in a fan-out pattern; with the proposed expansion of gates and the 24/7 operation, they are very concerned; advised that Newport Beach is in discussions with a potential airport operator and encouraged the City to participate in the discussions because of the impact to residents. Ms. Somers expressed her appreciation for the service provided by Donna Fagot, Executive Assistant in the City Manager's Office, who was leaving her post.

13. Sandy Johnson, Costa Mesa, referred to a recent newspaper article in which the Police had stopped some boys bicycling without helmets, a chase ensued, and Police ended up in a back yard with a dog and killed the dog. Ms. Johnson expressed the opinion that the chase and shooting were dangerous and excessive, and a change in policy was warranted.

Mayor Pro Tem Mansoor stated there is more to the issue than what was reported, and expressed his gratitude that the officers were OK. City Manager Roeder expressed concern about the characterizations made and advised there is much more to the incident. He stated he would provide information about the incident to any interested party. Mr. Roeder also expressed grave concern about the family involved and the animal.

14. Harold Hohl, Costa Mesa, a member of the Veterans of Foreign Wars, invited the City Council, past Mayors of the City, and other City officials to the 50<sup>th</sup> Memorial Day service to be held at Harbor Lawn Cemetery, featuring the All American Boys Chorus. He expressed his gratitude to City Manager Roeder who was instrumental in getting a veterans memorial at the Cemetery. Mr. Hohl advised the memorial is not complete yet, but hoped to see it completed by November 11<sup>th</sup>, when the 50<sup>th</sup> Anniversary of the first plaque, Lest We Forget, will be observed. Mr. Hohl encouraged everyone to participate in the project by donating money, service, material or labor.

Mayor Pro Tem Mansoor announced that Pizza Hut and the Costa Mesa Community Foundation would be holding a fundraiser between May 20<sup>th</sup> and 27<sup>th</sup> for the construction of the Costa Mesa Veterans Memorial; 20 percent of the purchase price on all carry-out orders would be donated to the Memorial. He encouraged everyone to participate in the fundraiser.

15. Paul Flanagan, Costa Mesa, expressed concern about the possible sale of the Orange County Airport to agencies who would not have the City's best interests at heart and encouraged the City Council to monitor any sale and to take whatever actions may be necessary to protect the City and the impacts on the East Side.

### CONSENT CALENDAR

MOTION: On motion by Council Member Mansoor, seconded by Council Member Steel, the City Council took the following actions on the following items:

#### Written Communications

1. The following Alcoholic Beverage Control Licenses were received and processed:

- a) Maru Sushi, 1500 Adams Avenue, Suite 100B, for an original Type 41 ABC License (on-sale beer and wine for a bona fide eating place).

b) BTE Deli, 2200 Harbor Boulevard, Suite E110, for a person-to-person transfer of an existing Type 41 ABC License (on-sale beer and wine for a bona fide eating place).

c) Future Brands, LLC, 1901 Newport Boulevard, Suite 271, for an original Type 10 ABC License (beer and wine importer), Type 05 ABC License (distilled spirits manufacturer's agent), and Type 12 ABC License (distilled spirits importer).

### Warrants

2. Adopted the following entitled Warrant Resolution:

WARRANT RESOLUTION NO. 2004: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ALLOWING CERTAIN CLAIMS AND DEMANDS, AND SPECIFYING THE FUNDS OUT OF WHICH THE SAME ARE TO BE PAID. (Funding City operating expenses in the amount of \$1,190,554.19)

3. Adopted the following entitled Warrant Resolution:

WARRANT RESOLUTION NO. 2005: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ALLOWING CERTAIN CLAIMS AND DEMANDS, INCLUDING PAYROLL REGISTER NO. 410 AND SPECIFYING THE FUNDS OUT OF WHICH THE SAME ARE TO BE PAID. (Funding Payroll No. 410 in the amount of \$1,915,455.43 and City operating expenses in the amount of \$328,408.86, including payroll deductions.

### Claims

4. The claim of Robert Shaw Blattenberger and the estate of Robert Gregg Blattenberger (alleged wrongful death) was rejected.

5. The claim of Gina Anderson (alleged street design defect) was rejected.

### Administrative Actions

9. Awarded a contingency fee contract to Utility Cost Management, LLC, 726 Barstow, Suite 108, Fresno, for a utility billing audit for the purpose of finding unclaimed utility refunds and credits owed to the City, and authorized the Mayor and Deputy City Clerk to execute.

10. Accepted the work performed by RMF Contracting, Inc., dba R&M Electrical Contracting, on the Marina View Park Security Lighting, City Project No. 03-27, as complete on March 12, 2004, and authorized the Deputy City Clerk to file a Notice of Completion; and authorized the release of the Labor and Material Bond seven months after filing date, the release of the Faithful Performance Bond twelve months after the filing date, and the release of the retention monies 35 days after the Notice of Completion filing date.

11. Approved Amendment No. 1 to the Waste Disposal Agreement with the County of Orange and authorized the Mayor to execute same.

12. Approved a Leave of Absence without pay, for Police Corporal David Makiyama, for ninety days, pursuant to Personnel Rules and Regulations, Rule 12, Section 4 (B).

MOTION UNANIMOUSLY CARRIED. The Mayor declared Warrant Resolution Nos. 2004 and 2005 duly passed and adopted.

### END OF CONSENT CALENDAR

6. Destruction of Finance Department Records: Steven Clifford Perkins, Costa Mesa, requested the matter be removed from the Consent Calendar and questioned if the records would first be archived and computerized for future reference purposes.

Director of Finance Marc Puckett explained these were source documents that were entered into the City’s computerized system and were seven years old and exceeded the Records Retention Guidelines. The Mayor gave a copy of the Council Agenda Report to Mr. Perkins

Mr. Perkins invited the general public and the City Council to a spaghetti dinner on June 6<sup>th</sup> at the United Methodist Church and requested RSVP’s.

MOTION: On motion by Council Member Cowan, seconded by Council Member Mansoor, the City Council adopted the following entitled Resolution:

RESOLUTION NO. 04-32: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AUTHORIZING RECORDS DESTRUCTION FOR THE FINANCE DEPARTMENT OF THE CITY OF COSTA MESA, PURSUANT TO ORDINANCE NO. 75-60.

Roll Call Vote:

AYES:	COUNCIL MEMBERS:	MONAHAN, MANSOOR, COWAN, SCHEAFER, AND STEEL
NOES:	COUNCIL MEMBERS:	NONE
ABSENT:	COUNCIL MEMBERS:	NONE

MOTION UNANIMOUSLY CARRIED. The Mayor declared Resolution No. 04-32 duly passed and adopted.

- 7. Conrad and Associates, LLP Contract, Annual Independent Audit Services: Council Member Monahan removed the matter from the Consent Calendar for a separate vote, since he has a business relationship with the firm.

MOTION: On motion by Council Member Mansoor, seconded by Council Member Cowan, the City Council awarded a contract to Conrad and Associates, LLP, 2301 Dupont Drive, Suite 200, Irvine, in the amount of \$152,833 for annual independent audit services for Fiscal Years 2004, 2005, and 2006, with an option to extend the contract in one-year periods, for a minimum of two Fiscal Years, and authorized the Mayor and Deputy City Clerk to execute same. Council Member Monahan abstained. MOTION CARRIED.

- 8. EXTENSION OF DEADLINE FOR DISMISSAL OF LAWSUIT RELATING TO CONDITION NO. 17C FOR APPROVAL OF CONDOMINIUM PROJECT AT 1901 NEWPORT BOULEVARD: City Attorney Tom Wood requested the matter be removed from the Consent Calendar. Mr. Wood advised that Condition No. 17C of the Final Master Plan approval (Resolution No. 04-10) for the 145-unit condominium project at 1901 Newport Boulevard required the developer to cause a dismissal with prejudice of the pending action Rutter Development Corporation v. City Council of the City of Costa Mesa et al., Orange County Superior Court Case No. 03CCO9792, within 105 days after Ordinance No. 04-2 took effect, unless the City extended the time period. The actual deadline is June 17<sup>th</sup>, not May 17<sup>th</sup>, as articulated in the Council Agenda Report. The City Attorney recommended that the City Council continue the matter for a joint meeting with the Redevelopment Agency on June 14<sup>th</sup>, if an extension is still necessary.

The Mayor asked if anyone wished to address the City Council on the matter.

- 1. Robin Leffler, Costa Mesa, on behalf of the Costa Mesa Citizens for Responsible Growth (CMCRG), advised that a copy of the Council Agenda Report was forwarded to their attorney, Douglas Karstan, but she and Dr. Paul Flanagan as representatives of CMCRG, did not receive copies. Mayor Monahan assured Ms. Leffler that in the future she would receive a copy of any report. Ms. Leffler opined that given the

community interest and concern in the project, consideration of any extension of time for dismissal of the lawsuit should be legally noticed for a public hearing.

2. Heather Somers, Costa Mesa East Side, noted that the City Council Agenda Report stated, as an alternative the City Council could let the deadline to dismiss the lawsuit expire which would put Rutter in default of a condition of approval and that the ramifications of that action were uncertain at this point. Ms. Somers requested that those ramifications be clarified before the City Council next consider the matter and that it be done at a City Council meeting, rather than a Redevelopment Agency meeting.

3. Terry Shaw, Costa Mesa, reiterated his concern about the project and referenced a recent newspaper article about parking. Development Services Director Don Lamm advised the affordable housing agreement was still being negotiated and there were technical questions relating to how the 40 parking spaces were to be utilized. He expected to have the agreement completed by the June meeting and offered to meet with Mr. Shaw.

**MOTION:** On motion by Council Member Mansoor, seconded by Council Member Steel, the City Council continued consideration of an extension of the deadline for dismissal of Rutter Development Corporation v City of Costa Mesa lawsuit, Orange County Superior Court Case No. 03CC09792, to a Special Joint Meeting of the City Council and Redevelopment Agency to be held June 14, 2004. **MOTION UNANIMOUSLY CARRIED.**

### PUBLIC HEARING

1. PUBLIC HEARING: GENEAL PLAN AMENDMENT NO. GP-04-01 AND  
REZONE R-04-01, 330/340 WEST BAY STREET

General Plan Amendment No. GP-04-01, to change the General Plan from General Commercial to Medium-Density Residential and to rezone the properties located at 330/340 West Bay Street from General Business District (C-2) to Multi-Family Residential District, Medium Density (R2-MD); Richard Dick and Associates, applicant; Environmental Determination: Mitigated Negative Declaration.

The Deputy City Clerk announced this was the date and time for public hearing on the applications and reported that the Affidavits of Mailing and Publication were on file in her office.

Associate Planner Claire Flynn briefed the City Council Agenda Report dated May 3, 2004, and displayed slides showing the current building structure on the site and the adjacent land uses, noting the proposed Medium-Density Residential General Plan designation and the R2-MD zoning would allow a maximum of 44 dwelling units on the combined properties.

Mayor Monahan interrupted and advised that he may have a potential conflict of interest, noting his business is nearby, and a determination as to whether or not he would have a financial benefit had yet to be determined. In an abundance of caution, the Mayor stated he would not be participating in the discussion or vote on the applications and requested the Mayor Pro Tem to assume chairmanship of the meeting. Mayor Pro Tem Mansoor requested Ms. Flynn to continue.

Mayor Monahan left the Council Chambers at 7:45 p.m.

Ms. Flynn continued and noted that at the initial screening of the GPA, the City Council requested the developer to expand the project. The developer contacted the adjacent property owners who indicated they had no interest in selling their properties or being involved in his project. Ms. Flynn reviewed the Initial Study/Mitigated Negative Declaration process and advised there was a Mitigation Monitoring

Program relating to the waste removal of the underground storage tanks and future noise impacts. In conclusion, Ms. Flynn advised that the Planning Commission reviewed the applications and on April 26, 2004 adopted a resolution recommending

approval of the Mitigated Negative Declaration and Mitigation Monitoring Program, the proposed General Plan Amendment, and introduction for first reading an ordinance rezoning the property.

Council Member Steel stated he believed the density of the project was too high, the lots needed to be larger and he favored homeownership in the area which the project did not guarantee.

In response to Council Member Schaefer, Ms. Flynn advised that originally there were three gasoline tanks, one was removed in 1987 and the other two were later filled with slurry. A preliminary environmental analysis was conducted and it was determined that the site could be remediated. The Orange County Health Care Agency was contacted and they stipulated that a letter of case closure would be required prior to residential development commencing.

Mayor Pro Tem Mansoor asked the applicant if he wished to make a presentation.

Garratt Collacci, representing the owner, advised that although 44 units would be allowed, they are proposing a 32-unit project. He further advised that the affordability element of the project could not be accomplished under R1 zoning, given the larger lot size and price points that would be necessary. In response to Mayor Pro Tem Mansoor, Mr. Collacci advised that all the units were to be "For Sale" units.

The Mayor Pro Tem declared the public hearing open and asked if anyone wished to address the City Council.

1. Terry Shaw questioned the number of units to be built and the current vehicle average daily trips; Associate Planner Flynn responded 44 units were allowed, but the developer was proposing 32 units; and the maximum build-out of the property with a 64,000-square foot office building would allow 716 trips, however, with the smaller office building constructed on the property, there are currently 570 average daily trips.
2. Martin Mallard, Costa Mesa, expressed concern with the fact that Costa Mesa has the largest apartment rental unit stock in Orange County in comparison with other cities of similar size and the lack of single-family homes being constructed in Costa Mesa; and he encouraged the City Council to require the developer to build single-family residences.

In response to Mayor Pro Tem Mansoor, Development Services Director Don Lamm advised the City could not condition "For Sale" units. Mr. Lamm emphasized the primary question was, does the City Council wish to have the property remain commercial/commercial office or does the Council find residential more desirable for the property; that the zoning would automatically follow after the land use designation policy issue was resolved; and although a specific development project has not been proposed, staff believes the developer will propose a single-family detached development project.

3. Steven Clifford Perkins, Costa Mesa, surmised that the underground storage tanks on the property contained cleaning solvents from the newspaper printing presses and encouraged the City to retain the prime printing and publishing business within the City limits.
4. Sandra Genis, Costa Mesa, suggested that the GPA and rezone be held in abeyance until a definitive project is proposed and that the City Council not approve the Mitigated Negative Declaration as proposed, at this time.

In response to Mayor Pro Tem Mansoor's question, Development Services Director Lamm stated the City Council could always wait until a specific project and site plan were proposed, but from staff's standpoint, it was a policy issue, did the City want residential on the property or not. Staff was recommending a GPA and rezone, since, in their professional opinion, residential zoning was appropriate for the property, given the fact that it abuts residential property and this is a good opportunity to attract more housing units to the City.

The Mayor Pro Tem asked if anyone else wished to address the City Council

5. Robin Leffler, Costa Mesa, urged the City Council to do the full environmental review for the project.

Development Services Director Don Lamm advised that the City does a full environmental review on every application, in accordance with California Environmental Quality Act guidelines, for public and City Council review and input.

The Mayor Pro Tem asked if anyone else wished to address the City Council; hearing not response, he closed the public hearing.

Mayor Pro Tem Mansoor stated he believed more residential development was needed in the City and pointed out that since Costa Mesa was basically built-out, the residential development would be in-fill projects. The Mayor Pro Tem noted that the proposed project had less density than would be permitted by Code.

Council Member Cowan expressed support for the GPA and rezone, noting that residential development was appropriate for the subject property.

Council Member Steel stated he believes less density and more homeownership is needed in the City, and he could not support the GPA and rezone without concrete information about the project to determine exact density and whether it would provide homeownership options.

Development Services Director Don Lamm suggested that if the City Council was not inclined to adopt the GPA, that they just take it off calendar at this time, and staff would re-evaluate and submit it along with a development proposal when submitted. He stated that if it was denied at this time, the developer would be precluded from resubmittal for a period of six months. Acting City Attorney Wood confirmed that the City Council could place the matter off-calendar and basically receive and file the application at this time.

Garratt Collacci pointed out that the East Side has seen a lot of development over the past five to ten years and the West Side has not. He believed that the proposal would act as a catalyst for the West Side, enticing other owners/developers to improve the area.

Council Member Scheafer expressed support for the proposal.

In response to Mayor Pro Tem Mansoor, Development Services Director Lamm stated that by combining the GPA, Zone Change, and development project, the City Council would have the opportunity to see what type of housing was being proposed, but that a decision would have to be made based upon density or design, rather than on rental vs ownership. He stated that if the applications were submitted at the same time, it would afford staff time to calculate if the Mayor's property was located within 500 feet of the project and whether or not he could participate and vote on the matters.

Mayor Pro Tem Mansoor stated he was leaning toward single-family, for-sale units and favored placing the applications off-calendar at this time in order to consider a site development plan in conjunction therewith at a later date.

Garratt Collacci interjected it is not their intent to build apartments on the property and requested that the rezoning application be conditioned as such.

Following a brief discussion, the Acting City Attorney recalled that on rare occasions the City Council has conditioned zone changes and noted that the applicant has requested a condition stipulating no apartments would be built.

**MOTION:** On motion by Council Member Mansoor, seconded by Council Member Cowan, the City Council adopted the following entitled resolution adopting Mitigated Negative Declaration, Mitigated Monitoring Program, and General Plan Amendment

PG-04-01, and introduced the following entitled ordinance for first reading, approving Rezone No. R-04-01, with the condition that the project be “for sale” units.

RESOLUTION NO. 04-33: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, ADOPTING A MITIGATED NEGATIVE DECLARATION, MITIGATION MONITORING PROGRAM, GENERAL PLAN AMENDMENT NO. GP-04-01 FOR 330/340 W. BAY STREET.

Roll Call Vote:

AYES: COUNCIL MEMBERS: MANSOOR, COWAN, SCHEAFER

NOES: COUNCIL MEMBERS: STEEL

TEMPORARILY COUNCIL MEMBERS: MONAHAN  
ABSENT

ORDINANCE NO. 04-06: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADOPTING REZONE PETITION NO. R-01-04 CHANGING THE ZONING OF 330 AND 340 W. BAY STREET TO MEDIUM-DENSITY, MULTI-FAMILY RESIDENTIAL (R2-MD).

Council Member Steel voted “No” and Council Member Monahan was temporarily absent. MOTION CARRIED. The Mayor Pro Tem declared Resolution No. 04-33 duly passed and adopted.

RECESS: The Mayor Pro Tem declared the meeting recessed at 8:20 p.m.

AFTER RECESS: Mayor Monahan reconvened the meeting at 8:30 p.m., with all Council Members being present.

### OLD BUSINESS

Ordinance No. 04-5 and Amendments to Council Policy 400-2, Sale and Discharge of Fireworks: The Deputy City Clerk read the title of Ordinance No. 04-5 and noted it was introduced for first reading at the May 3, 2004 meeting.

Council Member Scheafer advised that on May 5, 2004, a town hall meeting was held on the proposed changes to local fireworks regulations and was well attended by representatives of the fireworks industry, local community, and non-profit organizations that previously held permits for the sale of fireworks. He thanked everyone for their participation. Council Member Scheafer further advised that subsequently the Committee met to discuss possible changes to the Council Policy as a result of the input from the public meeting. He reviewed the proposed changes as outlined in the City Council Agenda Report dated May 12, 2004.

Council Member Steel questioned if a letter in both English and Spanish could be sent to every household, the cost of which could be borne by the firework companies, encouraging the use of safe and sane fireworks, listing the penalties for use of illegal fireworks, and providing a hotline number for reporting the use of illegal fireworks.

Mayor Monahan asked if anyone wished to address the City Council on the matter.

1. Steven Clifford Perkins, Costa Mesa, advised that Boy Scouts troops are sponsored by schools, churches, civic organizations and recommended that they not be unfairly competed with because their sponsors did not fall into certain categories in the Council Policy, and noted his approval of the 8:00 p.m. closure of stands on July 4<sup>th</sup>.
2. Dave Salcido, Costa Mesa, expressed the opinion that the required insurance was for the fireworks stands and did not cover damage to surrounding homes in the event of a fire, there was no provision for trash clean-up or who would bear the cost, and requested the City Council to address these issues in the policy.

3. Mike Berry, Costa Mesa, expressed his disapproval with some of the proposed changes to the Policy relating to reduction of the number of permits to be issued, recognized groups vs their holding groups, insurance requirements, and incomplete application information.
4. Sandra Genis, Costa Mesa, objected to creating a Council Policy vs an ordinance; permittees do make money so they should be required to distribute informative flyers, be responsible for trash cleaning, and animal control; and encouraged strong enforcement of current laws and regulations rather than change them.
5. David Perkins, Costa Mesa, Boys Athletic Director and Head Coach of Costa Mesa High School, expressed concern about six stands being allotted to Newport Harbor High School given their opportunities to fund programs in Newport Beach; noted the two high schools in Costa Mesa have a limited fund base for all their school programs; and requested that Newport Harbor High School be excluded from the allotment.
6. Pat Duffy, Costa Mesa, expressed his support of the continued inclusion of the Releaf organization, since it has operated a fireworks stand for many years at Harbor Boulevard and Adams Avenue and this is their only fundraiser; benefits the City through the donation and planting of trees at no cost to the City, and makes the City green and beautiful.
7. Ron Amburgey, Costa Mesa, Fireworks Chairman for Costa Mesa High School Football, expressed concern that the City was considering changing the rules in the eleventh hour of the fireworks permitting process, noting that in two weeks applications were due, suggested that whatever is approved now be implemented for next year; and expressed support for the plan discussed at the May 5<sup>th</sup> town hall meeting that would give the high schools 20 stands, Estancia and Costa Mesa eight each, and Newport Harbor four, since only 50 percent of their students are Costa Mesa residents.
8. Liz Parker, Costa Mesa, Newport Harbor High School Baseball, questioned how the lottery was going to work for the high schools and noted the short time frame before fireworks permit applications were due.

City Manager Roeder explained that preliminarily it was anticipated that the benefiting groups within each high school would submit applications for the number of stands allotted for each school. If a consensus could not be reached, a lottery for those allocations under the category of “high schools” of the Policy would be conducted at each school. Those groups not selected in the lottery would be precluded from application under other groups listed in the Policy.

9. Robin Leffler, Costa Mesa, stated she believed fireworks should be regulated through an ordinance rather than a policy, since a policy could be changed as a consent calendar item at any meeting and the public would not generally be aware of its consideration; and further, that the problem is with illegal fireworks and enforcement of laws prohibiting the sale and discharge thereof.
10. Brian Harris, Newport Beach and Costa Mesa businessman, representing Youth Services Association, suggested an amendment to the proposed Ordinance, to exempt from a lottery any organization that has held a permit for 15 years or longer.
11. Audrey Buck, Costa Mesa and Estancia High School Music Program, confirmed with Council Member Steel that he would support flyers being included in bags of items purchased by the public; Council Member Steel answered in the affirmative and stated he would additionally like to see a mailer go out; Ms. Buck requested that the closing time at fireworks stands be at 9:00 p.m.
12. Helen Evers, Costa Mesa, expressed her displeasure with the permitting of fireworks; it was about money, not youth; that fireworks permit rights should not supersede her and other residents’ rights; reported that organization in other cities where fireworks are banned, have found other fundraising opportunities to fund their youth programs; and encouraged the City Council to ban fireworks in Costa Mesa.
13. Robert Graham, Costa Mesa, expressed support for a fireworks permit for the Releaf organization.
14. Richard Whittaker, Costa Mesa, expressed support for a fireworks permit for the Releaf organization, noting that he and his children benefit from their contribution to the City.

15. Gary Spencer, Costa Mesa, questioned why Newport Harbor High School and other groups were not being required to provide documentation substantiating the Costa Mesa residency requirement of their membership, and who would be conducting the lottery.

Council Member Schaefer responded the committee wanted organizations to be on the honor system and require documentation if there was an abuse of the rules, and that the Finance Department would be conducting the lottery.

In response to Council Member Steel, Fire Chief Ellis stated that in an effort to improve enforcement, for the past three years the Fire Department has been working with the Orange County Fire Authority, participating with cities County-wide in observation patrols, and providing a higher presence with trucks and engines in areas where past problems have occurred. Chief Ellis advised that the City Manager, Police Chief and he would be meeting shortly to finalize plans for stepped-up enforcement.

Council Member Schaefer advised that he had recently learned that the City of Gilroy collects a clean-up fee and that he plans to research their program further. As to the issue of ordinance vs Council policy, Council Member Schaefer stated part of the regulations are by ordinance and part are by Council policy to allow flexibility in the administration of the program. He advised that the Policy under consideration this date was the result of public input at the May 5<sup>th</sup> town hall meeting.

MOTION: Council Member Schaefer moved to adopt Ordinance No. 04-5 and to approve amendments to Council Policy 400-2 pertaining to the sale and discharge of fireworks, as proposed. Council Member Monahan seconded the motion for purposes of discussion.

Mayor Monahan expressed the opinion that the 60 percent of students at Newport Harbor High School who live in Costa Mesa should not be penalized because they go to high school in Newport Beach. The Mayor stated that he is not interested in banning fireworks in Costa Mesa, not because of the money fireworks stands generate for youth groups, but because fireworks is part of their 4<sup>th</sup> of July block party which is a family tradition and an aspect of Costa Mesa which he particularly likes. He stated there are a lot people who feel that way because there a lot of block parties held on the 4<sup>th</sup> of July in Costa Mesa which include the discharge of fireworks. Relating to stepped-up enforcement, Mayor Monahan expressed the view that with every holiday, increased drunk driving and domestic disputes occur, and that will happen with or without fireworks. It is a matter of priority as to where to use Safety personnel.

In conclusion, the Mayor complimented Council Member Schaefer for getting involved in such a controversial issue and bringing forth the proposed fireworks regulations and noted this was the first attempt to getting a handle on the number of fireworks stands (57) in the City and there probably would be more changes before next year. Mayor Monahan stated they wanted to provide the youth groups with this fundraising opportunity and wanted everyone to enjoy a safe and sane 4<sup>th</sup> of July.

Council Member Cowan stated she would have preferred to see a marked-up version of the ordinance and Council policy reflecting changes/additions from the existing ones; favored an 8:00 p.m. 4<sup>th</sup> of July fireworks stand closing; still had concerns about the trash, debris and impact on NPDES requirements; and did not believe the issue of enforcement of legal vs illegal fireworks had been fully discussed and implemented. Council Member Cowan further stated that based upon the facts in the conclusion section of the City Council Agenda Report, she could not support the proposed ordinance and Council Policy and believed that on July 5<sup>th</sup>, all fireworks should be banned.

Mayor Pro Tem Mansoor stated he was not ready to ban fireworks or certain types of fireworks; that the only part of the ordinance and Council policy that he could support was the reduction in the number of permitted stands; did not want to see new groups denied access to the process, since there may be legitimate new groups in the future, and they should be able to participate in the lottery; focusing on Costa Mesa residents

was important, but limiting stands to youth only groups was not appropriate, since there were other legitimate groups who should be able to participate in the lottery; did not believe flyers would be effective; wanted to keep fireworks for the fundraising and patriotic aspects of it; and believed additional enforcement of fireworks regulations was warranted.

Council Member Steel stated he favored legal fireworks for the fundraising and patriotic aspects of it and was not ready to ban fireworks. Relating to distribution of flyers, he believed that most households would not receive them and residents would use illegal fireworks. Council Member Steel requested that the requirement to print and mail a flyer in English and Spanish to each household, the cost of which was to be borne by the fireworks companies or the City, be included in the ordinance and Council policy. Council Member Steel believed stronger enforcement of illegal fireworks was necessary.

A vote on the foregoing motion to adopt the following entitled ordinance and to approve Council Policy No. 400-2, was taken:

ORDINANCE NO. 04-5. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING CHAPTER II, ARTICLE 8, OF TITLE 9 AND SECTION 7-19 OF THE COSTA MESA MUNICIPAL CODE REGULATING FIREWORKS SALES.

Roll Call Vote:

AYES: COUNCIL MEMBERS: MONAHAN, SCHEAFER, AND STEEL

NOES: COUNCIL MEMBERS: MANSOOR AND COWAN

ABSENT: COUNCIL MEMBERS: NONE

MOTION CARRIED. The Mayor declared Ordinance No. 04-5 duly passed and adopted.

The following person requested to be heard following adoption of Ordinance No. 04-5:

Melissa Harrison, Costa Mesa, questioned the validity of the ordinance adoption process, noting that in her opinion the City did not comply with the Government Code. Acting City Attorney Tom Wood noted that Ms. Harrison and Mr. Soffer had broached the subject on prior occasions and reiterated his opinion that the City's procedure is in compliance with the law.

### NEW BUSINESS

1. Induction into the Circle of Service at Lions Park—Maher and Richey:

Recreation Manager Jana Ransom briefed her Council Agenda Report dated April 30, 2004. Ms. Ransom advised that the Parks and Recreation Commission and staff are recommending the induction of Nora Gonzales Maher and Timothy Richey into the Circle of Service in Lions Park, adjacent to the Neighborhood Community Center, in accordance with Council Policy No. 800-4. Ms. Ransom explained that among other accomplishments and distinctions, Ms. Maher co-founded the Save Our Youth (SOY) organization and Mr. Richey was active in the Boy Scouts in Costa Mesa for over three decades. In conclusion, Ms. Ransom advised that the induction ceremony would be held on July 23, 2004, and would also include a previously approved inductee, Mr. Tom Thompson.

Council Member Scheafer applauded the selection of Ms. Maher and Richey into the Circle of Service. Since the program had been initiated some time ago, he suggested that the Parks and Recreation Commission and staff review the selection criteria to insure the integrity of the program. Council Member Mansoor suggested that nominations continue to occur during the year, but that selection of one or two inductees

be made at the end of the year. Council Member Cowan stated she prefers the current process.

Mayor Monahan asked if anyone in the audience wished to address the City Council on the matter; there was no response.

**MOTION:** On motion by Council Member Cowan, seconded by Council Member Steel, the City Council approved the induction of Nora Gonzales Maher and Timothy Richey into the Circle of Service located in Lions Park, adjacent to the Neighborhood Community Center, with the induction ceremony being held July 23, 2004. **MOTION UNANIMOUSLY CARRIED.**

2. Inclusion of Parkway Improvement in the Fairview Road Rehabilitation Project: Public Services Director William Morris briefed his Council Agenda Report dated May 6, 2004 and noted that of the thirteen (not fifteen as stated in the Report) parkway trees located on the west side of Fairview Road causing damage to the sidewalk, seven need to be removed and the remaining six need to be root pruned before sidewalk repair. Mr. Morris stated that the work could be accomplished by one of three options: 1) Issue a change order to the Fairview Road Rehabilitation Project contract awarded on April 5, 2004. 2) Upon completion of the project, issue a change order to the City's current parkway repair contract project. 3) Include the improvement in next year's Annual Parkway Repair Program.

Mayor Pro Tem Mansoor preferred to solicit proposals from the two existing contractors to get the best price and to complete the sidewalk repair work at the same time in order to minimize traffic problems and general public inconvenience; funding to be taken from the Special Projects program; and suggested that trees with colored flowers be used. Council Member Scheafer questioned the use of root barriers for the remaining six trees. Public Services Director William Morris responded that they have been using root barriers for the past five or six years and that the new roots reflect downward rather than uprooting the sidewalk. Mr. Morris advised that all the tree wells would need to be enlarged.

Council Member Cowan expressed her appreciation to staff for their efforts over the past four to five years in saving as many trees as possible.

Mayor Pro Tem Mansoor noted that there is a possibility that some of the adjoining property owners' trees may be causing some of the sidewalk damage and suggested that staff contact them to solicit their cooperation in correcting the problem on their side of the fence. Mr. Morris stated they would contact the property owners.

Mayor Monahan asked if anyone in the audience wished to address the City Council on the matter; there was no response.

**MOTION:** On motion by Council Member Mansoor, seconded by Council Member Cowan, the City Council directed staff to solicit bids from the current Fairview Road Rehabilitation project contractor and the parkway maintenance contractor for the tree removal and sidewalk repair work on the west side of Fairview Road between Fair Drive and Wilson Street, approved \$27,000 from the Net Revenue Special Projects fund, to choose replacement trees with color other than white, and to contact the adjoining property owners to address issues of concern relating to their trees, and directed the Parks and Recreation Commission to consider the removal of the seven parkway trees causing sidewalk damage. **MOTION UNANIMOUSLY CARRIED.**

3. East 17<sup>th</sup> Street Between Orange Avenue and 500 feet East of Santa Ana Avenue, Landscape Improvements: Public Services Director William Morris briefed his Council Agenda Report dated May 6, 2004 and noted that the Parks and Recreation Commission and staff recommend that the City Council approve the proposed plant palette for parkways and medians on East 17<sup>th</sup> Street between Orange Avenue and 500 feet east of Santa Ana Avenue and approve the modification to the Streetscape and Median Development Standards for East 17<sup>th</sup> Street extending from Newport Boulevard to Irvine Avenue to reflect the new plant palette. Mr. Morris advised that community

meetings were held and traffic counts were taken, and stated that staff believes the plan provides very little inconvenience for left turn ingress and egress to the properties.

Mayor Monahan asked if anyone wished to address the City Council on the matter.

1. Mark Sork, owner of a building at 17<sup>th</sup> Street and Raymond Avenue, expressed his opposition to the plan based on the fact that a raised median would limit the ingress and egress to properties; would direct traffic down a one-lane alley with two directional traffic; and would direct more traffic between his building and the parking lot servicing his building.

2. Brian Harris, owner of Frank's Flowers on 17<sup>th</sup> Street, advised that approximately three years ago, the merchants and surrounding neighborhood reviewed a plan to construct a raised median and to widen 17<sup>th</sup> Street; expressed the opinion that the raised median plan under discussion was a prelude to the street widening; that businesses along 17<sup>th</sup> Street cannot afford any impairment of ingress and egress to their properties; that public safety would be compromised if emergency vehicles were blocked because of the median; advised that the merchants and residents suggested street improvements and enhancements similar to Harbor Boulevard between 19<sup>th</sup> Street and Wilson; and advised that they do not want a median installed or the street widened.

In response to Council Member Steel, Public Services Director Morris advised that all departments had reviewed the proposed plan and the medians did not pose a problem for safety personnel; he noted that medians are located throughout the City.

3. Doug Edds, lessee of 330 East 17<sup>th</sup> Street, requested a delay of the matter until the impacts on traffic and businesses could be addressed; and noted he favored beautification of the area, but not limiting ingress and egress to the businesses.

4. Beth Refakes, East Side resident, expressed her understanding of the project, that it would be a village-type commercial area and no street widening involved; that she favored beautification of the area, left-turn egress improvements, but believed further review of the proposed medians was warranted.

At the request of the Mayor, Public Services Director William Morris explained that the Master Plan of Highways provided for a six-lane road; that they had obtained a grant for the project, but after public meetings, relinquished the grant, since there would be no street widening; that they applied for another grant for street improvements, signalized intersections, parkway landscaping and medians; City Council approved the environmental documentation three years ago; a consultant was hired to design the improvements and before the City Council this date is the proposed plant palette for the parkways and medians.

5. Steven Clifford Perkins, Costa Mesa, requested that the City Engineer consider the volume of large truck traffic on 17<sup>th</sup> Street when he reviews his traffic study.

Mayor Monahan asked if anyone else wished to address the City Council; there was no response.

In response to the Mayor, Public Services Director Morris stated he believed there was some time for further review before the grant deadline.

Council Member Steel stated he uses the crosswalk and believed the medians would enhance the crosswalk.

Council Member Cowan expressed the opinion that it would be a mistake to allow traffic to go back into the surrounding neighborhoods and believed it should be kept on 17<sup>th</sup> Street; stated she liked the medians and landscaping, but was surprised the medians were so large; questioned if the medians could be smaller or have more breaks in them which allow more ingress and egress to the businesses.

Mayor Monahan questioned whether the large median should be eliminated. Public Services Director Morris suggested that the plan be implemented, but that staff be

allowed to take a closer look at the large median located at the easterly end of the plan and to discuss with the affected business owners the possibility of reducing it. If it could not be reduced, then eliminate it. Council Members Mansoor and Steel favored further review.

**MOTION:** Council Member Cowan moved to approve the proposed plant palette for the parkways and medians on East 17<sup>th</sup> Street between Orange Avenue and 500 feet east of Santa Ana Avenue and the modifications to the Streetscape and Median Development Standards for East 17<sup>th</sup> Street, extending from Newport Boulevard to Irvine Avenue to reflect the new plant palette; and further, direct staff to modify, if at all possible, the median located at the easterly end of 17<sup>th</sup> Street (Pierce Street Annex) to better allow access to both sides of the streets, with the preference that some of the median be retained and if not possible, to eliminate it. Council Member Mansoor seconded the motion for discussion purposes.

For clarification purposes requested by the City Manager, Council Member Cowan stated she did not want additional Pierce Street Annex traffic going into the back.

**SUBSTITUTE MOTION:** Council Member Monahan moved to approve the proposed plant palette for the parkways and medians on East 17<sup>th</sup> Street between Orange Avenue and 500 feet east of Santa Ana Avenue and the modifications to the Streetscape and Median Development Standards for East 17<sup>th</sup> Street, extending from Newport Boulevard to Irvine Avenue to reflect the new plant palette; and to remove the proposed median between Santa Ana Avenue and Raymond Avenue. Council Member Scheafer seconded the motion. Council Members Cowan, Mansoor and Steel voted “No”. **MOTION FAILED TO CARRY.**

A vote was taken on the original motion. Council Member Monahan voted “No”. **MOTION CARRIED.**

**RECESS:** Mayor Monahan declared the City Council recessed at 10:45 p.m.

**AFTER RECESS:** Mayor Monahan reconvened the meeting at 10:50 p.m., with all Council Members being present.

4. **Proposed Ordinance Amending Special Event Permit Regulations:** Senior Deputy City Attorney Marianne Milligan briefed her staff report dated May 5, 2004 and explained the two major changes in the proposed ordinance were that the ordinance would now be “content neutral”, which means that a special event permit was not issued based on the type of speech that may be involved with the event, and that the ordinance no longer leaves decisions regarding issuance of permit and/or conditions in the sole discretion of the City Manager. In conclusion, Ms. Milligan advised that there were two proposed resolutions being submitted in conjunction with the proposed ordinance that would incorporate departmental service fees for special events into the City’s Annual Fee Resolution for ease of reference and that would establish pre-designated event routes for those events that require full or partial street closures.

In response to Mayor Monahan, Ms. Milligan advised that in working with the traffic engineers, the goal was to provide routes with high visibility and which had been successful in the past. It was determined that the four recommended parade routes would be adequate to address all needs for special events in the City. The Mayor questioned Parade Route Areas 3 and 4, Fairgrounds Area and Lions Park Area, respectively. Ms. Milligan advised that a rolling partial one-half street closure meant that one lane in one direction would be closed and it would be a rolling closure, and further, that a permit could be denied based upon another major event, like the County Fair, going on in the same area. Mayor Monahan expressed concern about the Area 4 route being limited to sidewalk only on Newport Boulevard, given the heavy volumes of traffic on 19<sup>th</sup> Street, Harbor Boulevard, and Newport Boulevard, and the impact on the adjacent merchants. Ms. Milligan reported that parades have been held in the past on these routes and although there were minor problems, there were no serious problems or complaints from the businesses. The route would not be available to events anticipated to be over one hour long which would keep the impact on the neighborhood

and businesses to a minimum. With pre-designated routes, a route providing high visibility is needed, and this route provides that.

Mayor Monahan reiterated his concern about closing the streets in Area 4 and suggested the use of sidewalks only on Park Avenue to Harbor Boulevard and Harbor Boulevard to Newport Boulevard. City Manager Allan Roeder stated that from a traffic enforcement perspective, the Police Department was supporting temporary closure of Harbor Boulevard near the shopping center because there were at least eight access points and not all access points would be closed at the same time. Ms. Milligan stated that use of sidewalks only on Newport Boulevard was because CalTrans had jurisdiction of the street, not the City, and any applicant would have to contact CalTrans if they wished to use the street.

Council Member Cowan stated that in her review of the proposed ordinance, she believed there was too much discretion left to staff in imposing conditions, no guidelines, and too short an application process. Council Member Cowan stated she would like to see the matter continued and discussed at another Study Session, since there were so many unanswered questions and she did not believe the proposed ordinance provided the criteria needed. Mayor Monahan suggested that rather than another Study Session on the subject, that Council Member Cowan present her questions to staff and have the matter discussed again at the next City Council meeting in three weeks. Council Member Cowan was agreeable. Acting City Attorney suggested continuing it for two meetings.

The Mayor asked if anyone wished to address the City Council on the matter. The following persons spoke:

1. Terry Shaw, Costa Mesa, suggested that a definition of “interference” on Page 14, was needed, route designation needed clarification, designation of routes should be on a rotating basis, church event exclusions needed to be addressed, and he supported a continuance of the matter.
2. Beth Refakes, East Side Costa Mesa, expressed concern about the impact of routes on residential neighborhoods and use of canopies or tents.

The Mayor asked if anyone else wished to address the City Council; there was no response.

**MOTION:** On motion by Council Member Monahan, seconded by Council Member Steel, the City Council continued consideration of the proposed ordinance amending Special Event Permit Regulations and the establishment of pre-designated event routes for Special Events requiring street closures to a meeting in June, and adopted the following entitled resolution:

**RESOLUTION NO. 04-34:** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, INCORPORATING THE CITY’S SPECIAL EVENT FEES WITH THE CITY’S ANNUAL FEE RESOLUTION:

Roll Call Vote:

AYES:	COUNCIL MEMBERS:	MONAHAN, MANSOOR, COWAN, SCHEAFER, AND STEEL
-------	------------------	---

NOES:	COUNCIL MEMBERS:	NONE
-------	------------------	------

ABSENT:	COUNCIL MEMBERS:	NONE
---------	------------------	------

MOTION UNANIMOUSLY CARRIED. The Mayor declared Resolution No. 04-34 duly passed and adopted.

5. Shopping Cart Retrieval Program—Six-Month Status Report: Development Services Director Don Lamm briefed his City Council Agenda Report dated May 5, 2004 and advised that the program has been highly successful, and the current contract with

Hernandez City Services, Inc., which was very cost effective, would expire next month. Mr. Lamm reviewed the costs associated with a reduction in service, if the City Council was so inclined.

Jim Golfos, Chief of Code Enforcement, explained the billing process for collection of fees from the stores, explaining the City billed a store \$3 per each retrieved cart. Mayor Pro Tem Mansoor pointed out that the City's cost is more than that and questioned if the fee could be increased. Mr. Golfos responded that the stores are not willing to pay more, since they could hire their own contractor and pay less although the level of service would not be the same. Development Services Director and the City Attorney advised that to date the City had not been challenged on its fee program, but if it were raised, the City's may be at risk for a legal challenge.

Mayor Pro Tem Mansoor stated he would like to see the City's cost reduced and store owners assuming more of the cost of the program.

Council Member Cowan stated she did not want to tamper with such a successful program, given the shortness of its implementation.

The Mayor asked if anyone wished to address the City Council on the matter. The following person spoke:

Beth Refakes, East Side Costa Mesa recognized the success of the Program, related her experience with the contractor's response time, advised she was pleased that the contractor's telephone number was now on the City's Website, and expressed the opinion that as store owners assumed responsibility for retrieval of their carts, the City could then think about reducing the current level of service.

MOTION: On motion by Council Member Cowan, seconded by Council Member Monahan, the City Council directed staff to continue the current Shopping Cart Retrieval Program.

Council Member Steel complimented and congratulated Jim Golfos on the success of the Program, but expressed the desire to have store owners accept the responsibility for retrieval of their carts, so that in the future the City can spend less or no money on the Program.

Mayor Pro Tem Mansoor asked the maker of the motion if she would be willing to reduce the number of carts per week to be in violation or to the price per cart from \$3 to \$4. Council Member Cowan responded that in light of the work done with store owners and given the fact that the Program has been in operation for less than a year, she would be unwilling to consider substantial changes at this time. In response to Mayor Pro Tem Mansoor, Development Services Director Lamm stated staff would continue to keep statistics on the Program.

A vote was taken on the foregoing motion. Council Members Mansoor and Steel voted "No". **MOTION CARRIED.**

6. Closed Session: The Mayor noted that it was his understanding there was no need for a Closed Session to confer with the City's representative, Steve Hayman, Director of Administrative Services, regarding labor negotiations with the Costa Mesa City Employees Association, Costa Mesa Firefighters Association, Costa Mesa Police Association, and the Costa Mesa Police Management Association. City Manager Roeder confirmed that was correct.

## REPORTS

City Attorney: None

City Manager: City Manager Roeder congratulated the Police Department, Fire Department, Code Enforcement and others on a successful Public Safety Expo which was well attended and received.

COUNCIL MEMBER REPORTS, COMMENTS, AND SUGGESTIONS

1. Council Member Scheafer reminded and invited everyone to the Fish Fry to be held June 5<sup>th</sup> and 6<sup>th</sup> at Lions Park.

2. Mayor Pro Tem Mansoor reminded everyone that the Costa Mesa Community Foundation, in conjunction with Pizza Hut, would be holding a fundraiser to help fund the construction of the Costa Mesa Veteran Memorial: Between May 20<sup>th</sup> and 27<sup>th</sup>, 20 percent of all carry-out purchases would be donated to the construction fund.

ADJOURNMENT: The Mayor declared the meeting adjourned at 11:50 p.m. and noted the next Regular Meeting would be held June 7, 2004.

Respectfully submitted,

---

JULIE FOLCIK, DEPUTY CITY CLERK

---

MAYOR